

South Downs National Park Public Inquiry
(Re-opened)

Implications
of
NERC Act 2006 and
Meyrick Judgments
for
Inclusion of Ditchling
and Lodge Hill

Proof of Evidence

by

Ditchling Parish Council
The Ditchling Society



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(Annexes – these are all contained in a separate document no. #1147/2/2)

1 Introduction

- 1.1 The South Downs Campaign (SDC) submits the following proof of evidence on the implications of the Natural Environment and Rural Communities Act 2006 (NERC Act) and the Meyrick Judgments for the inclusion of the village of Ditchling and adjacent the landscape in the South Downs National Park. This is in response to the interim proposal that Ditchling be removed from the proposed South Downs National Park as shown as deletion 7 on Map 7 of the large maps.
- 1.2 This proof of evidence should be read in conjunction with the SDC's main proof on the implications of the NERC Act and Meyrick Judgments for the South Downs National Park and the Inspector's provisional recommendations¹.
- 1.3 The SDC is a network of organisations working for the best possible South Downs National Park, representing over 130 national, regional and local groups and organisations². This particularly proof of evidence has been produced in partnership, in particular, with two of these members: Ditchling Parish Council and The Ditchling Society.
- 1.4 The case made by the SDC in this proof of evidence is endorsed by Lewes District Council (see annex 1).

¹ SDC Proof of Evidence: Implications of NERC Act 2006 and Meyrick Judgments for South Downs National Park (jointly produced with CPRE) – Inquiry Document No. #1147/1/1

² SDC Updated Biography – Inquiry Document No: #1147/0/1

2 Biographies of Principal Witnesses

2.1 Brian Clutterbuck

- 2.1.1 Brian Clutterbuck is a Chartered Tax Advisor by profession having worked for Lloyds Bank and Black Horse Life Assurance Company until his retirement from full-time employment in 2000.
- 2.1.2 He has lived in Ditchling for over 25 years during which time he has been actively involved with the local community. Previously he was both treasurer and a trustee of the Ditchling Museum. He has also been the Chairman of a Friends Support Group for a Residential Care Home in Woking.
- 2.1.3 Since 1999, he has been a Parish Councillor on Ditchling Parish Council and is currently its Chairman. As Vice Chairman of the Parish Council in 2001/2 he led the working party which produced the document “Ditchling: A weald and downland parish” which formed the submission for the inclusion of Ditchling Parish in the South Downs National Park. He was involved with the implementation of traffic calming in the High Street is now one of two Parish Councillors working with East Sussex County Council on the Local Area Transport Strategy. He is a representative on the Lewes Association of Town and Parish Councils and sits on the East Sussex Association of Local Councils.
- 2.1.4 For the past six years he has been Chairman of the Ditchling Village Association. This is an umbrella organisation for all Village Clubs, Societies etc. It runs monthly Coffee and Cake mornings, an annual newcomers party and older residents Christmas lunch. It also runs an annual inter Village sports day and a bi-annual fair.
- 2.1.5 He is also a Trustee and Treasurer of the Old Meeting House in Ditchling and auditor to many local (and not so local) organisations.

2.2 Tom Dufty

- 2.2.1 Tom Dufty originally qualified as a teacher before spending thirty years working for BP in the Human Resources function. He started out in its Management Training Department in London and subsequently moved to its chemicals factory in South Wales, becoming Staff Manager before ending up in Group Headquarters in London. He retired in 2000.
- 2.2.2 He has lived in Ditchling for nearly 30 years and throughout that time has played an active part in village community life. About ten years ago he chaired the Ditchling Traffic Working Group which developed a case for needing to reduce and calm the traffic flow through Ditchling and for increased pedestrian safety measures. The County Council accordingly developed a comprehensive traffic scheme but only partially implemented it.
- 2.2.3 About three years ago he played an active part in writing and editing a report for the Parish Council, arguing for further measures to reduce and calm traffic flow, eliminate illegal HGV traffic, and increase pedestrian safety. This won County Council support and the County Council has now committed significant public funds to carrying out a comprehensive survey of traffic movements in and around Ditchling in 2006/7 and to developing a Local Area Transport Strategy for Ditchling in 2008.

- 2.2.4 He is currently chairman of The Ditchling Society; the Ditchling Village Hall; and has both formed and chairs the Ditchling.com website society. He is a trustee of the Friends of St Margaret's Church. He is a member of the Ditchling History Project, a subset of the museum, which researches and records local history. On its behalf he gives talks to external bodies and guided walks around the village. He was the author of a walker's guide to the village published by the Project in 2007 and has contributed to a number of their previous publications. He has also directed four plays for the Ditchling Players.

3 Summary Implications of Meyrick Judgments and NERC Act 2006

- 3.1 The SDC, having reviewed carefully the recently amended 1949 Act, and taken legal advice on certain aspects, considers it reinforces the way in which the criteria for designation were applied by the Countryside Agency in its work leading up to the Designation Order. This would suggest that Ditchling and Lodge Hill to the west of the village should be included in the South Downs National Park.
- 3.2 The changes made in the NERC Act clarify that cultural heritage and wildlife are factors that may be taken into account when determining if an area has sufficient “natural beauty” to be considered for inclusion in a National Park. These factors are both significant in the context of Ditchling and Lodge Hill to the west of the village and should therefore be reconsidered.
- 3.3 With regards to the Meyrick Judgments the SDC is concerned that Lodge Hill and the high quality land to the west of Ditchling was not mentioned in the Inspector’s report (CD #3) and has been provisionally excluded without any justification. This needs to be examined in the forthcoming inquiry.

4 Lodge Hill and the Land to the West of Ditchling

4.1 Summary of Reasons for Possibly Excluding Lodge Hill and the Land to the West of Ditchling

4.1.1 There were no specific comments made about the quality of Lodge Hill and the landscape to the west of Ditchling in the Inspector's Report (CD #3), nor any reasoning given as to why the area should not form part of the South Downs National Park.

4.2 Implications of Meyrick Judgments

4.2.1 In the Meyrick case, one of the points made by Judge Sullivan and reinforced by the Appeal Court is very relevant to the proposed deletion of Lodge Hill. This was the criticism of the New Forest National Park Inspector that in reaching his conclusions regarding the Hinton Estate the Inspector was judged not to have 'clearly explained' why the area met the designation criteria³.

4.2.2 In this instance, Lodge Hill, which lies to the west of the village of Ditchling has been excluded without any 'clear explanation'. The only assessment of the landscape near Ditchling was that to the north of the village (see paragraphs 5.1.5 – 5.1.7 below). At no time was the high quality landscape of Lodge Hill, which lies to the west of the village, ever mentioned.

4.2.3 The SDC firmly believes that the inclusion of Lodge Hill should not be dependent on either the landscape to the north, or indeed for that matter, on the inclusion of the village of Ditchling in the National Park. It is a substantial sweep of high quality and easily accessible landscape that meets the National Park criteria and deserves inclusion on its own merits (see section 4.3 below plus the photographs in annex 2).

4.3 Implications of the NERC Act

Landscape

4.3.1 The view from Lodge Hill provides spectacular panoramic views of the Downs. The view of the Ditchling settlement lying in the 'dip' in the foreground is virtually the same as that which would have been afforded an observer at least two hundred years ago. The visible buildings are all historically of that era. Similarly the view of the settlement looking east is much the same as a century and a half ago. The reverse view from the Downs is similarly spectacular with the eye drawn to the newly sailed Oldland windmill.

4.3.2 Lodge Hill and the land to the west has a natural beauty in itself. The land is predominantly pasture grazed by sheep (see photos 1-5, 9 & 12 in annex 2), which contributes to the downland feel of the area, particularly as this area is dominated by the 'wall' of the Downs to the south (see photos 1, 3, 5, 8, 11 & 12 in annex 2). This

³ Paragraph 74, Meyrick Judgment (High Court) – CD #9
Paragraphs 21, 44 and 47, Meyrick Judgment (Court of Appeal) – CD #20

gives the area a strong borrowed character which is reinforced by the local topography which faces the land in question towards the Downs.

Cultural Heritage

- 4.3.3 The no-through-road lane leading up the side of the Hill is probably the oldest lane in the village. At the foot of the Hill are three known Mesolithic seasonal transient work sites. At the top of Lodge Hill (as on the Downs) there is at least one barrow and maybe a second. It is possible that the known barrow was used as a burial place for the legendary Saxon chief, Dicul, from whom Ditchling is supposed to have derived its name. An archaeological investigation was carried out late last year, under the supervision of the University of Sussex, to ascertain whether this is the case and whether the second feature is a barrow. This represents new evidence.
- 4.3.4 A Roman road runs across the foot of the Hill, crossing the field to Keymer, connecting Streat and Hassocks - now a footpath.
- 4.3.5 On the ridge at the top of the hill is the Oldland post mill, over 300 years old, last used for grinding corn and meal in 1918 (see photos 4 & 7, annex 2). It subsequently fell into disrepair but 30 years ago moves were started to look at trying to save the windmill. Since that time a dedicated team of volunteers has worked hard to rebuild the mill, culminating in the mounting of four new sweeps in October last year.
- 4.3.6 The next phase of its restoration is to get the internal functions back into full working order to enable exhibitions to be given of grinding corn and meal. This is expected to take a further 2 years and some fundraising will be needed in order to achieve this but nothing like as much as has already been raised so far. This is new evidence as during the first part of the inquiry the work on restoring this windmill was far less advanced and the windmill was not such a feature in the landscape (without its sails). In addition the Oldland Mill Trust, a charitable trust, was only established in June 2007 (see annex 3).
- 4.3.7 Although the windmill is in Keymer, lying just over the county border in West Sussex, historically, it was also known as the 'Ditchling Mill' and is mentioned as such in the Ditchling Churchwarden's accounts in 1755⁴.
- 4.3.8 There is also a well-concealed Royal Observer Corps underground Monitoring Station at the top of Lodge Hill, constructed at the height of the 'Cold War' in 1962 and closed in 1970 (see photo 10 in annex 2). Details of this new evidence can be found in annex 4.

Relative wildness

- 4.3.9 Another issue that arises out of the NERC Act is the clarification of the law as regards the definition of natural beauty. Section 99 of the NERC Act specifically allows for land to be included that is managed and not wholly natural. The SDC therefore contends that land does not necessarily have to contain "*any sense of relative*

⁴ See the Oldland Mill Trust's website: <http://www.oldlandwindmill.co.uk/history.htm>

*wildness*⁵ as was seemingly the test that was being applied for the land around Ditchling. Relative wildness is only one of a basket of indicators which may be used to assess natural beauty. It is not a pre-requisite for natural beauty. Therefore it is necessary to reappraise the landscape around Ditchling with the clarification that the NERC Act provides.

Core character

- 4.3.10 As the SDC highlights in its proof of evidence on the general implications of the NERC Act and Meyrick judgments⁶, judging whether an area should be included in a National Park based on its character is wrong both in law and policy. Therefore, when considering whether Lodge Hill or any other area should be included it should be on the basis of its quality and not its character.

⁵ Paragraph 7.319, page 138, Part 2 Report – CD #3

⁶ Section 2.2, SDC Public Inquiry NERC & Meyrick Proof of Evidence – Inquiry Document No. #1147/1/1

5 The Village of Ditchling

5.1 Summary of Reasons for Possibly Excluding the Village of Ditchling

General comments on settlements

- 5.1.1 When discussing the principle of whether settlements should be included in a National Park, the Inspector lays out the approach that should be taken for larger settlements⁷:
- 5.1.2 *“It seems to me that the cautionary comments regarding the inclusion of sizeable settlements in a National Park are well founded. Even so, I am not convinced that towns or other settlements above a certain size or population threshold should be automatically excluded from the PSDNP or, indeed, any other National Park. To adopt such a simplistic approach could lead to a “hole” within a tract of land that satisfies the designation criteria and in the PSDNP could result in a National Park pepper-potted with “holes”. Bearing this in mind it seems to me that if a settlement lies within a sweep of countryside that clearly meets the designation criteria, its inclusion probably would be justified. East Dean is an obvious example of a settlement that fits this description. This conclusion is subject to the rider that I consider that the assessment of whether the sweep of countryside meets the designation criteria should itself take account of the influence of the settlement on the land in question; not least the extent to which adverse or intrusive built development impacts on adjoining landscapes. The degree to which countryside penetrates a settlement and the strength of any visual or other associations would be additional considerations.*
- 5.1.3 *“Where a sizeable settlement lies at or very close to the boundary, its exclusion is more likely to be appropriate. I say that even if, say, it contains a wealth of important historic buildings and other cultural assets. In the PSDNP this point assumes especial relevance for the following reasons. Firstly, because many of the larger settlements are located in landscapes that do not form part of the core Downs, there is a greater likelihood that the surrounding countryside will not be able to satisfy the statutory criteria. Secondly, because the chalk outcrop is generally narrow and elongated in shape, inevitably many of the larger settlements lie at or close to the PSDNP boundary.*
- 5.1.4 *“It seems to me, therefore, that the inclusion or otherwise of individual settlements in the PSDNP has to be assessed in the light of their landscape context and their individual circumstances. It is not simply a matter of size. While the Agency’s approach to the inclusion or otherwise of settlements in the PSDNP relies on a seemingly complex appraisal matrix, CD70 clarifies that the fundamental issue is the relationship of a settlement to the wider landscape. Whatever its intrinsic qualities, a settlement should not be included in the PSDNP unless it is fully situated within a valued landscape. I am of the same opinion. This stance also broadly reflects the approach applied to this issue in the New Forest. There it led to the inclusion of some settlements and the exclusion of others...”*

⁷ Paragraphs 3.2 – 3.4, pages 39 – 40, Part 2 Report, CD #3

Specific Comments on Ditchling and the Land to the North of the Village

- 5.1.5 The Inspector concludes (paragraph 7.318): “...I accept that Ditchling is a special place not least because of its importance to the Arts and Crafts movement in the early part of the 20th century. I am in no doubt that it warrants inclusion in the PSDNP so long as the land to the north of it satisfies the designation criteria. If it does not, the Agency accepts that its approach towards settlements that are situated at the edge of the PSDNP must lead to its exclusion. Settlements such as Ditchling are only included in the PSDNP if they are set within a tract of landscape that satisfies the designation criteria.”
- 5.1.6 Commenting on the land to the north of Ditchling he states that (paragraph 7.319): “...I am not convinced that the land north of Ditchling meets the natural beauty criterion. In my opinion the sweep of Low Weald landscape to the north of Ditchling is not of high scenic quality. ...Overall the landscape is pleasant but hardly of national quality and to my mind it lacks “any sense of relative wildness”.”
- 5.1.7 Finally he concludes (paragraphs 7.321 and 7.322) when talking about the historic (Saxon) strip Parish of Ditchling that: “...I accept, nonetheless, that the historic elements of the landscape are all relevant to a consideration of natural beauty. On balance, however, I am not convinced that they are of sufficient weight to justify the inclusion of the extensive tract of Low Weald landscape north of Ditchling.”
- 5.1.8 “In my opinion the PSDNP boundary within this tract of transitional landscape should be drawn much closer to the escarpment. More precisely I consider that it should run along the southern edge of Ditchling...”

5.2 Misapplication of the Criteria

- 5.2.1 On the whole the SDC does not take issue with this approach except for the statements in paragraph 5.1.3 and in particular, that where: “settlements are located in landscapes that do not form part of the core Downs, there is a greater likelihood that the surrounding countryside will not be able to satisfy the statutory criteria”⁸. The SDC believes that it is the quality of the landscape in which a settlement lies which should be the key determinant. It does not believe that this issue is a valid consideration.
- 5.2.2 Other than the above point, the SDC’s concern is more with the application of this approach. Ditchling is a village with a population of around 1,400 (see annex 5 for calculation). The SDC therefore contends that Ditchling does not fall into the category of a sizeable settlement and should not be treated in the same way as the market towns. Consequently, the SDC cannot accept the statement in the Inspector’s report (CD #3) (paragraph 7.313) that: “it would be contrary to the Agency’s approach to include a settlement as large as Ditchling at the edge of the PSDNP”.
- 5.3 While the SDC supports Natural England’s boundary setting criteria, it believes that this has been misapplied in the case of the village of Ditchling. The SDC has new

⁸ Paragraph 3.3, page 40, Part 2 Report – CD #3

evidence to show that it is by no means unusual for a village of the size of Ditchling to be included on the edge of a National Park and indeed, there is compelling evidence from the Dartmoor inquiry to support this view. It is also not in keeping with recommendations elsewhere on the South Downs National Park boundary. The SDC will be providing this new evidence to the inquiry in the form of a written submission⁹ that should be read in conjunction with this proof. However, the SDC would welcome the opportunity to present its case in full at an oral hearing of the Inquiry.

5.4 Implications of NERC Act

- 5.4.1 The SDC notes that the Inspector accepts that Ditchling is of sufficient quality to be included in the National Park (see paragraph 5.1.8 above). However, whilst recognising “...that the historic elements of the landscape are all relevant to a consideration of natural beauty.” (paragraph 7.321, CD #3) the Inspector does not mention the importance of historical linkages which can be quite different. Given that his decision to exclude Ditchling was ‘on balance’, the clarification provided by the NERC Act suggests that this should be given further consideration.
- 5.4.2 Many of the historic buildings portray their close association with the geology of the Downs and its hinterland through the use of chalk and flint and the timber from the parkland south of the village. Materials also came from the village itself including the sand from the quarries along the sandstone ridge running through the settlement’s centre; the limestone from the band in the settlement; and the tiles and bricks manufactured from the Wealden clay in the settlement. All these factors underline the settlement’s strong association with its surrounding countryside, particularly with the Downland south of the village. These may have come about because of the historic land use and to people’s historic occupations and livelihoods, but today they are a very visible and tangible embodiment of the village’s link with the Downs and its underlying geology.
- 5.4.3 This latter point is further reinforced by the fact that the SDC has new evidence about cultural heritage, including cultural links of the area to the Downs, which it would like to present to the inquiry (see annex 6). Much, if not all, of this evidence has arisen since the Inquiry closed in March 2005, including the production of ‘Ditchling – Historic Character Assessment Report’ by Dr Roland B Harris, funded by English Heritage and first published in June 2005¹⁰ and Lewes District Council’s Conservation Area Character Appraisal for Ditchling published in April 2007¹¹. These strengthen the case for including Ditchling in the South Downs National Park.

⁹ SDC Written Representation – The case for including the Village of Ditchling – Inquiry Document No: #1147/2/3

¹⁰ Ditchling - Historic Character Assessment Report by Dr Roland B Harris (English Heritage) (June 2005) – CD #38

¹¹ Ditchling Conservation Area Character Appraisal, Lewes District Council (April 2007) – CD #39

6 Conclusion

- 6.1 The SDC firmly believes that Lodge Hill and the landscape to the west of Ditchling is of sufficient high quality to meet the natural beauty criterion in its own right. The failure to give ‘clear justification’ for proposing this area’s deletion is an issue raised by the Meyrick Judgments and therefore demands that this area be properly considered at the re-opened inquiry. This combined with the new evidence about the cultural importance of this area strengthens the case for its inclusion.
- 6.2 Should Lodge Hill be included in the National Park, even without land to the north of the village of Ditchling being included, this would result in the village being surrounded by National Park land on three sides. In effect it would be firmly embedded in the National Park with only a relatively small portion of the edge of the village forming the National Park boundary. Consequently, the SDC believes that this justifies the inclusion of the village of Ditchling itself, given the village’s small size, its cultural importance and its situation within the landscape.
- 6.3 However, the clarification of the law in the NERC Act, along with significant new evidence since the last inquiry about the cultural importance of Ditchling, can only add weight to the case for the inclusion of the village. Given the Inspector’s acknowledgement that Ditchling was of sufficient quality to be in the national park (see paragraph 5.1.8 above) further consideration needs to be given to this.
- 6.4 In addition, while the SDC supports Natural England’s boundary setting criteria, it believes that this has been misapplied in the case of the village of Ditchling. It is not in keeping with recommendations elsewhere on the South Downs National Park boundary, nor with precedents set within existing National Parks such as Dartmoor. It will be bringing further evidence of this to the inquiry in the form of a written submission¹² but would appreciate the opportunity to present this evidence orally.
- 6.5 Overall, the SDC believes that Lodge Hill and the village of Ditchling should be included in the South Downs National Park with the National Park boundary as outlined in annex 7.

¹² SDC Written Representation – The case for including the Village of Ditchling – Inquiry Document No: #1147/2/3